

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

_____	)	
UNITED STATES OF AMERICA	)	
	)	
v.	)	CASE NO. 05-10019-RGS
	)	
DANIEL W. McELROY,	)	
AIMEE J. KING McELROY.	)	
_____	)	

**MOTION IN LIMINE OF DEFENDANTS, DANIEL W. MCELROY AND  
AIMEE J. KING MCELROY, TO EXCLUDE EVIDENCE OF IMPROPER VOUCHING**

Defendants, Daniel W. McElroy and Aimee J. King McElroy move this Court in limine to exclude plea agreements, evidence in examination , opening statements or in argument of improperly vouching for a witness's credibility.

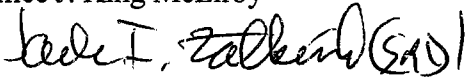
It is the intention of the Government to seek to offer at trial the plea agreements entered into with Charles Wallace, Xieu Van Son and Dich Trieu. Contained within each agreement are terms and conditions requiring full and truthful cooperation and information from each defendant, and the consequences of a failure to adhere to this requirement. Although testimonial evidence of such plea agreements may be allowed, the document itself should not be offered as it unfairly prejudices the defendants and may mislead the jury into believing that the requirements under the plea agreement dictate truthful testimony.(Fed. R. Evid. 403). As such, jurors may not carefully scrutinize the credibility of the witness testifying. Further, the Government is unfairly advantaged by placing before the jury a document that appears to secure truthful testimony. Such language vouching for the credibility of a witness, prosecutorial vouching or the injection of personal opinions is impermissible. “ ‘A prosecutor may not place the prestige of the government behind a witness by making personal assurances about the witness’[s] credibility; nor may the

prosecutor indicate that facts outside the jury's cognizance support the testimony of the government's witnesses.' " *United States v. Auch*, 187 F.3d 125, 131(1<sup>st</sup> Cir. 1999) quoting *United States v. Neal* 36 F.3d 1190 at 1207(1<sup>st</sup> Cir1994).

Therefore, the defendants request that the plea agreements be excluded. Additionally, the defendants request that there be no improper vouching in opening statements, witness examinations or closing arguments

Respectfully submitted,  
By Her Attorney,

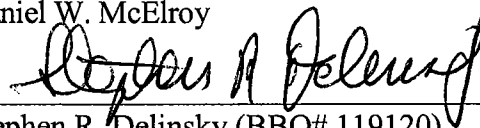
Aimee J. King McElroy



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Respectfully submitted,  
By His Attorney,

Daniel W. McElroy



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DATED: January 10, 2008

**CERTIFICATE OF SERVICE**

I hereby certify that this document(s) filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on 1-10-08

By: 